

BEFORE THE
SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF A SHORELINE
SUBSTANTIAL DEVELOPMENT PERMIT
ISSUED BY THE TOWN OF FRIDAY
HARBOR TO ERNEST AND MONALEE
ZIEBELL,

1901 CORPORATION and
FREDERICK C. ELLIS,

Appellants,

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Intervenor,

v.

TOWN OF FRIDAY HARBOR and
ERNEST and MONALEE ZIEBELL,

Respondents.

SHB Nos. 84-10 and 84-13

ORDER GRANTING MOTION
FOR SUMMARY JUDGMENT

Intervenor, Department of Ecology, filed a Motion for Summary
Judgment on June 14, 1984. The motion came on for hearing before the

1 Shorelines Hearings Board; Gayle Rothrock, Lawrence J. Faulk
2 (presiding), A. M. Bud O'Meara, Nancy R. Burnett, and Rodney Kerslake,
3 Members, convened at Lacey, Washington, on June 27, 1984.

4 Appellants were not represented. Respondents were represented by
5 attorney Donald Eaton. Intervenor, the Department of Ecology, was
6 represented by Patricia H. O'Brien. The permittee was represented by
7 attorney John O. Linde. The proceedings were recorded electronically
8 and by Marcia Erwin.

9 Having considered the motion, the undisputed facts, the briefs in
10 support and opposition for the motion and the files and records herein,

11 The Shorelines Hearings Board concludes that the motion should be
12 granted.

13 The Board's reasoning is that the term "nonconforming use" as
14 utilized in the Friday Harbor Shoreline Master Program does not
15 differentiate between "use" and "building" and, therefore, must be
16 considered to include both. Anderson, R., American Law of Zoning, 2nd
17 Go, Section 6.01. The Board further notes that the term "development"
18 as defined in the Shoreline Management Act, RCW 90.58.030(3)(d),
19 includes structures as well as use.


20 From these Conclusions, the Board enters this
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ORDER

The shoreline substantial development permit issued by the Town of Friday Harbor on February 16, 1984, to Ernest and Monalee Ziebell is hereby vacated and the matter remanded to the Town of Friday Harbor for further proceedings.

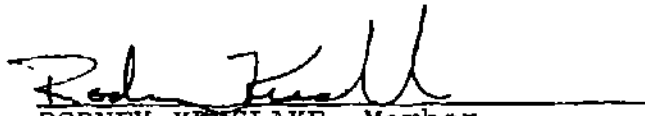
DONE at Lacey, Washington, this 29TH day of June, 1984.

SHORELINES HEARINGS BOARD


LAWRENCE J. FAULK, Vice Chairman


GAYLE ROTHROCK, Chairman


NANCY R. BURNETT, Member


RODNEY KERSLAKE, Member


A. M. O'MEARA, Member